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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,204	09/30/2003	Werner Schuhmann	NC-2	9959

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IP LEGAL DEPARTMENT  
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EXAMINER

LUKS, JEREMY AUSTIN

ART UNIT PAPER NUMBER

2837

DATE MAILED: 09/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/675,204	SCHUHMANN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jeremy Luks	2837	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 August 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 2 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuhn (WO 00/72344 A1 – The Examiner will refer to DE 199 25 051 C2, provided by Applicant in the IDS for a translation of Kuhn). Kuhn teaches an enclosure (Figure 2, #10); a speaker (38) contained within the enclosure (10), the enclosure (10) comprising a plurality of holes (28) sufficient to allow sound to pass from the speaker (38) through the enclosure (10); and a foil (42) placed in the enclosure (10) over the holes (28), and attached to the enclosure (10) at the foil's (42) perimeter such that the foil (42) acts as a second membrane for the speaker (38), the foil (42) seals the speaker (38) against intrusion by a liquid (Page 8, [0030]). Kuhn fails to teach a foil (42) placed on the enclosure. However, Kuhn teaches a protective foil (34) placed on the enclosure and covering the touch pad and lcd screen. It would have been obvious to one of ordinary skill in the art at the time the invention was made to cover the speaker with protective foil placed on the enclosure, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70

2. Claim 3, 16 and 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kuhn (WO 00/72344 A1) in view of Banter (6,512,834). Kuhn is relied upon for the reasons and disclosures set forth above. Kuhn fails to disclose a foil being round and being glued only at about the outer 2 to 3 mm perimeter of the foil. However, Banter describes a foil in a round shape (See Figure 3, #20) and being glued with adhesive only along the outer perimeter (22) (See Col. 7, Lines 49-53). Banter further describes that the bonded area be minimized depending on the size and acoustical requirements of the assembly (See Col. 8, Lines 9-14).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the apparatus Kuhn with the apparatus of Banter to provide a protective membrane configured to allow sound energy to pass through with very low attenuation, while focusing acoustic energy to housing apertures.

3. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kuhn (WO 00/72344 A1) in view of Ford (5,664,015). Kuhn is relied upon for the reasons and disclosures set forth above. Kuhn fails to disclose an enclosure having about thirty of said holes, each hole having a diameter of about 1 mm. Nevertheless, Ford describes an enclosure having about thirty holes (See Figure 1, #78). Ford fails to specify a specific diameter of said holes, however, it would have been obvious to one of ordinary skill in the art at the time of the invention to make said holes about 1 mm in diameter in order to keep drops of water from entering said holes. Further, it would have been obvious to combine the apparatus of Kuhn with the design of Ford in order to allow for

the sound path to be uninterrupted in the event of obstruction to one or more of the sound holes.

4. Claims 5, 6, 9, 11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuhn (WO 00/72344 A1) in view of Bohnke (6,546,107). Kuhn discloses an enclosure (Figure 2, #10); a speaker (38) contained within the enclosure (10), the enclosure (10) comprising a plurality of holes (28) sufficient to allow sound to pass from the speaker (38) through the enclosure (10); and a foil (42) placed on the enclosure (10) over the holes (28), and attached to the enclosure (10) at the foil's (42) perimeter such that the foil (42) acts as a second membrane for the speaker (38), the foil (42) seals the speaker (38) against intrusion by a liquid (Page 8, [0030]). Kuhn fails to disclose a magnetic shield located between the enclosure and the speaker, providing mechanical protection for the speaker and sitting between the foil and the speaker, the magnetic shield comprising a plurality of holes, which allow the passage of sound, said holes being offset from the holes in the enclosure, and a foil placed on the enclosure. However, Kuhn teaches a protective foil (34) placed on the enclosure and covering the touch pad and lcd screen and acting as a membrane. It would have been obvious to one of ordinary skill in the art at the time the invention was made to cover the speaker with protective foil placed on the enclosure, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70. Bohnke discloses a magnetic shield (Figure 4, #AD) located between the enclosure and the speaker, providing mechanical protection for the speaker, the magnetic shield comprising a plurality of holes, which allow the passage of sound, said holes being

offset from the holes in the enclosure (Col. 3, Lines 37-65; Col. 4, Lines 62-67). When used in combination with Kuhn, the protection plate will sit between the foil and the speaker. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the apparatus of Kuhn with the apparatus of Bohnke to provide a magnetic cover in the form of a shielding plate which is substantially impermeable to static magnetic fields from an electrodynamic/magnetic transducer, at least in the sound exit region of the transducer.

5. Claims 7, 8, 10, 12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuhn (WO 00/72344 A1) in view of Bohnke (6,546,107), further in view of Butler (6,288,866), and further in view of Daddis (6,029,942). Kuhn and Bohnke are relied upon for the reasons and disclosures set forth above. Kuhn and Bohnke fail to disclose a first cover and a second cover, and the second cover having at least one boss which is inserted through a hole of a printed circuit board (PCB), said boss having a plurality of deformable ribs which deform when the PCB is pressed with the first cover against the ribs until the first cover meets the boss. However, Butler discloses a first cover (Figure 1, #12) and a second cover (36), and the second cover (36) having at least one boss (42) engaging a printed circuit board (PCB) (26). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the apparatuses of Kuhn as modified, with the apparatus of Butler in order to protect the internal components from vibrations or impact. Butler fails to disclose a boss, which is inserted through a hole of a printed circuit board (PCB), said boss having a plurality of deformable ribs which deform when the PCB is pressed with the first cover against the

ribs. Nevertheless, Daddis discloses a boss (Figure 5, #22), which is inserted through a hole of a support element (28), said boss (22) having a plurality of deformable ribs (Figure 6, #35) which deform when the support element (28) is pressed with the first cover (32) against the ribs (35), until the first cover (32) meets the boss (Figure 5, #22). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the apparatus of Kuhn as modified, with the apparatus of Daddis in order to protect the internal components of the PCB from vibrations or impact.

6. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kuhn (WO 00/72344 A1) in view of Bohnke (6,546,107), as applied to claim 9 above, and further in view of Banter (6,512,834). Kuhn and Bohnke are relied upon for the reasons and disclosures set forth above. Kuhn and Bohnke fail to disclose a foil attached to the enclosure only at the perimeter of the foil. Banter describes a foil (See Figure 3, #20) attached to the enclosure only at the perimeter (22) (See Col. 7, Lines 49-57). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the apparatus Kuhn as modified, with the apparatus of Banter to provide a protective membrane configured to allow sound energy to pass through with very low attenuation, while focusing acoustic energy to housing apertures.

### ***Response to Arguments***

7. Applicant's arguments with respect to Claims 1-15 have been considered but are moot in view of the new ground(s) of rejection. The Examiner feels the obvious

combination of Kuhn, Ford, Banter, Bohnke, Butler and Daddis teach all of the limitations described by Claims 1-15.

8. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., covering of the holes in Claims 3 and 4, and a boss that compresses (in arguments page 10, 2<sup>nd</sup> paragraph)) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

9. In response to applicant's argument that the flange of Daddis is not a rib, the Examiner disagrees; a flange can be defined as *an internal or external rib or rim for strength, guiding, or attachment of one object to another*. Since the flange of Daddis deforms, it can be considered a deformable rib by one skilled in the art.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pertinent arts of record relating to waterproof patient handsets are disclosed in the PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy Luks whose telephone number is (571) 272-2707. The examiner can normally be reached on Monday-Thursday 8:30-6:00, and alternating Fridays 8:30-5:00.

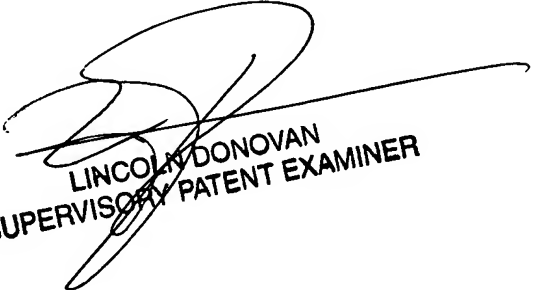


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula Bradley can be reached on (571) 272-2800 x33. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jeremy Luks  
Patent Examiner

Art Unit 2837



LINCOLN DONOVAN  
SUPERVISORY PATENT EXAMINER